

(c) Factual allegations that are not denied by the petition may be deemed to have been admitted. The demand and the petition (together with other documents authorized in this part) shall become the pleadings in appeals from demands.

**§ 959.6 Revocations of suspension.**

(a) The General Counsel, or a member of his staff as he may designate, may initiate a revocation of the suspension of the Private Express Statutes as provided in part 320 of this title as to any person, by filing, in triplicate, a petition with the Docket Clerk which

- (1) Names the person involved;
- (2) States the legal authority under which the proceeding is initiated;
- (3) States the facts in a manner sufficient to enable the person named to make answer thereto; and,
- (4) Recommends the issuance of an appropriate order.

(b) *Answer.* (1) The person named in the petition (designated the "Respondent" in these rules) shall file an answer with the Docket Clerk within 15 days after he is served with a copy of the petition in accordance with § 959.8.

(2) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the petition.

(3) Any facts alleged in the petition which are not denied, or which are expressly admitted in the answer, may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(4) The answer shall be signed personally by an individual respondent, or in the case of a partnership, by one of the partners, or, in the case of a corporation or association, by an officer thereof.

(5) The answer shall set forth the respondent's address and the name and address of his attorney, if respondent is represented by counsel.

(6) The answer shall affirmatively state whether the respondent will appear in person or by counsel at the hearing.

(7) If the respondent does not desire to appear at the hearing in person or by counsel, the matter shall be deemed submitted for determination pursuant to paragraph (b) of § 959.10.

**§ 959.7 Notice of hearing.**

When a petition is filed, the Docket Clerk shall issue a notice of hearing, stating the time and place of the hearing and the date for filing an answer which shall not exceed 15 days from the date of service of the petition, and a reference to the effect of failure to file an answer or appear at the hearing. (See §§ 959.5(c), 959.6(b), and 959.10.) Whenever practicable, the hearing date shall be within 30 days of the date of the notice.

**§ 959.8 Service of petition filed under § 959.6.**

(a) The Docket Clerk shall cause a notice of hearing and a copy of the petition to be transmitted to the postmaster at any office of address of the respondent in which the respondent is doing business, which shall be delivered to the respondent or his agent by said postmaster or his designee. A receipt acknowledging delivery of the notice shall be secured from the respondent or his agent and forwarded to the Docket Clerk, to become a part of the official record.

(b) If, after 5 days, the postmaster or his designee, can find no person to accept service of the notice of hearing and petition pursuant to paragraph (a) of this section, the notice and copy of the petition may be delivered in the usual manner as other mail addressed to the respondent. A statement, showing the time and place of delivery, signed by the postal employee who delivered the notice of hearing and petition shall be forwarded to the Docket Clerk and such statement shall constitute evidence of service.

**§ 959.9 Filing documents for the record.**

(a) Each party shall file with the Docket Clerk pleadings, motions, orders and other documents for the record. The Docket Clerk shall cause copies to be delivered promptly to other party(ies) to the proceeding and to the presiding officer.

(b) The parties shall submit three copies of all documents unless otherwise ordered by the presiding officer. One copy shall be signed as the original.

(c) Documents shall be dated and state the title of the proceeding and, except initial petitions, the docket number. Any pleading or other document required by order of the presiding officer to be filed by a specified date, shall be delivered to the Docket Clerk on or before such date. The date of filing shall be entered thereon by the Docket Clerk.

**§ 959.10 Default.**

(a) If the respondent fails to file an answer within the time specified in the notice of hearing, he shall be deemed in default and to have waived hearing and further procedural steps. The Judicial Officer shall thereafter issue an order without further notice to the respondent.

(b) If the respondent files an answer but fails to appear at the hearing, the presiding officer shall receive petitioner's evidence and render an initial decision.

**§ 959.11 Amendment of pleadings.**

(a) Amendments proposed prior to the hearing shall be filed with the Docket Clerk. Amendments proposed thereafter shall be filed with the presiding officer.

(b) By consent of the parties, a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the petition, the presiding officer shall make such ruling on the motion as he deems fair and equitable to the parties.

(c) When issues not raised by the pleadings, but reasonably within the scope of the proceedings initiated by the petition, are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence, and to raise such issues, shall be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues made by the pleadings, but fails to satisfy the presiding officer that an

amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the amendment and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of supplemental pleadings setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

**§ 959.12 Continuances and extensions.**

Continuances and extensions will not be granted by the presiding officer except for good cause found.

**§ 959.13 Hearings.**

Hearings are held at the headquarters of the Postal Service, Washington, DC 20260, or other locations designated by the presiding officer.

**§ 959.14 Change of place of hearings.**

Not later than the date fixed for the filing of the answer, a party may file a written request that a hearing be held at a place other than that designated in the notice. He shall support his request with a statement outlining:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify; and,

(c) The reasons why such evidence cannot be produced at Washington, D.C. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

**§ 959.15 Appearances.**

(a) A respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with the rules in part 951 of this title.

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the initial petition shall be mailed to the attorney.

(d) A respondent must promptly file a notice of change of attorney.